S.B.CIVIL WRIT PETITION NO. 4575/2007

Mitha Lal Chouhan Vs. State of Rajasthan & Ors.

DATE OF ORDER :: 3.8.2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. R.K. Rathi, for the petitioner.

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By this petition for writ the petitioner has questioned validity of the order of assessment of tax dated 20.10.1997 and the order of reassessment of tax dated 21.10.2005 passed by the competent authority under Rajasthan Motor Vehicles Taxation Act, 1951. The orders aforesaid are appealable under Section 14 of the Act of 1951. No such appeal has been preferred by the petitioner.

The contention of learned counsel for the petitioner is that remedy of appeal is not available to the petitioner on the count that, (i) an appeal can be preferred only against an order of assessment and not of reassessment, and (ii) the limitation for filing appeal has already been expired and the orders of assessment and reassessment of tax were given to the petitioner even after expiry of limitation prescribed to prefer an appeal that is 30 days. I do not find any substance in the contentions so made. Under Section 14 of the Act of 1951 any person aggrieved by an order relating to determination of recovery of tax may

prefer an appeal within a period of 30 days from the date of such order. The orders of assessment and reassessment of tax relate to determination of recovery of tax, therefore, both are appeallable as provided under the Act of 1951. So far as the question of limitation is concerned it is always open for the petitioner to move an application for condonation of delay in filing an appeal for good and sufficient reasons and the appellate authority is competent enough to condone delay on being satisfied with the reasons advanced by the party concerned.

In the instant matter I do not find any just reason to entertain this petition for writ ignoring the statutory remedy provided to the petitioner under the Act of 1951. Accordingly, this petition for writ is dismissed. The petitioner may prefer an appeal before the competent appellate authority at the earliest with an application for condonation of delay in filing the appeal.

(GOVIND MATHUR),J.

jgoyal